IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 227 of 2007

Date of decision: 12.9.2007

Rajesh Kumar & Ors. … Petitioners

Versus

H.P. Subordinate Services Selection Board & Ors. … Respondents

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Coram :

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioners: Mr. Lovneesh Kanwar, Advocate.

For the respondents: Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Additional Advocate General and Mr. J.S. Guleria, Law Officer, for respondents No. 1 & 2.

Mr. Bhuvnesh Sharma, Advocate, for respondents No. 3 to 5 & 8.

Mr. Onkar Jairath, Advocate, for respondents No. 6 & 7.

Per V.K. Ahuja, J.:

This judgment shall dispose of the writ petition filed by the petitioners under Articles 226/227 of the Constitution of India for giving appropriate directions to the respondents.

Briefly stated the facts of the case are that respondent No. 1 had issued advertisement in the newspaper inviting applications for different posts created by the respondent/State as mentioned in Annexure-A including the posts of PETs. The petitioners being fully

[1]Whether reporters of Local Papers may be allowed to see the judgment?

eligible and qualified as per the norms prescribed, submitted their applications to the competent authority before 20th April, 2001 and they were called for screening test by respondent No. 1. It was alleged that 3000 candidates had applied for the said posts of PETs and out of them only 1200 candidates had qualified the screening test. The petitioners had qualified the screening test and they were called for the ground test and the result was declared. But the names of the petitioners were not recommended by respondent No. 1 for the posts of PETs pursuant to the result declared on 30th July, 2002. The petitioners have mainly challenged the recruitment procedure adopted by the respondents to the posts of PETs which appointments were to be made district-wise.

Aggrieved by their non-selection, the petitioners preferred an Original Application before the State Administrative Tribunal under Section 19 of the H.P. Administrative Tribunals Act, 1985. The break up of the posts reserved in various districts was also provided in the advertisement. The petitioners had also challenged this procedure of taking option of a candidate for a particular district as well as the procedure adopted for selection of the posts of PETs by taking into consideration the marks secured by the candidates in screening test, ground test and interview. They have specifically challenged the procedure for giving of marks for screening test and alleged that the marks of the written test/ground test or interview should be taken into consideration.

The said application was dismissed by the State Administrative Tribunal vide its order dated 12.1.2007 holding that the applicants have not placed on record the advertisement which contained break up of vacancies for each districts. The selection process was not restricted to a particular district and any candidate irrespective of his

place of birth could compete for the same. District-wise break up of a vacancies of District cadre post of PET was given and at the time of interview all the candidates were to submit their option for one district only on the option proforma alongwith the call letter. The application was dismissed by the learned State Administrative Tribunal mainly on the ground that the persons selected/appointed who would be directly affected by outcome of application, were not made respondents and deciding of the application without making them parties or issuing them notice will be illegal. The State Administrative Tribunal has relied upon the decisions of the Apex Court in **Arun Tewari and others** Vs. **Zila Mansavi Shikshak Sangh and others etc., AIR 1998 Supreme Court 331** and **Prabodh Verma and others, etc. etc.** Vs. **State of Uttar Pradesh and others, etc., AIR 1985 Supreme Court 167,** in which it was held that High Court should not proceed with writ petition without insisting on such persons or some of them in representative capacity, being made respondents.

We have gone through these judgements. The plea taken by the petitioners' counsel during the course of arguments for non-impleading these selected persons was that they were not aware about the names and addresses of the selected persons numbering about 209. The application was filed by the petitioners before the State Administrative Tribunal on 12.8.2002 and the petitioners could have filed an application before the State Administrative Tribunal directing the respondents to supply the names and addresses of the persons selected, but no steps were taken in this behalf though the application was pending before the State Administrative Tribunal for a number of years until it was decided on 12.1.2007. In the absence of the persons selected having been impleaded as parties, their appointments cannot

be challenged by the petitioners until and unless they are impleaded as parties and they are given an opportunity to be heard and as such, the application filed before the State Administrative Tribunal was not maintainable. The order passed by the learned Tribunal does not suffer from any illegality and as such, calls for no interference from this Court, particularly when sufficient time has elapsed since the appointments were made and the selected candidates were not made parties to the application filed before the State Administrative Tribunal. The writ petition is accordingly dismissed. Parties are left to bear their own costs.

(Deepak Gupta),
Judge

(V.K. Ahuja),
Judge

September 12, 2007
(BSS)